

2

# ISLAMIC LAW ASSOCIATION ILA



## Overview of Islamic Corporation Law 2

What is the history behind companies in Muslim countries?

## The Legitimacy of Arbitration in Islamic Law 3

Learn about "Islamic Banking without Interest," and what does *Shari'a* law say about arbitration?

## Intellectual Property Rights in Islamic Law 5

Learn about the uniqueness of intellectual property rights in Islam.

## The Hijab, Islam, and Stereotypes from the Eyes of an Ally 7

Feminism and stereotypes from an ally's perspective and coffee conversations!

## ILA Calendar 9

Check out our events this year and become an ILA member!



Islamlaw@iupui.edu



@ILAatIU



Facebook.com/ILAatIU



ILAatIU

# ISLAMIC LAW MAGAZINE

Islamic law magazine is a magazine publishes by the Islamic Law Association at Indiana University Robert H. McKinney School of Law. The effort made in this magazine is a form of cooperation by Muslims students, professors, and faculties who have expertise in Islamic law and its branches. Islamic law magazine designed for law student who are interested in expanding the knowledge about Islamic law. The magazine contains short articles that cover various subjects in Islamic law. All rights of short articles are reserved for authors and it represents author's opinion, but not the Islamic Law Association.





**Bashar Almofadda**

Professor, The Higher Judicial Institute,  
Saudi Arabia

Companies existed as early as the Babylon era, but they were not regulated until 12<sup>th</sup> century. In contrast, Islamic Law paid attention to them once it was established. (Alghamdi & Husainy, 2007, p. 125). Since the first Hijri century (7<sup>th</sup> century), Islamic authors have dedicated chapters in their books for knowledge related to companies, discussing the kinds of companies, their requirements, termination of companies, conditions, etc. Islamic scholars divided companies into two categories. (Khaiad, 1983, p. 2/21):

**First Category:** Ownership (non-contractual) Company, which is owned by more than one individual without a contract. This category includes two kinds:

1. A voluntary company: it is the company that is formed by partners, usually two or more, who share a specific asset. For instance, two brothers buy one car. Or it can be formed when two or more people accept one gift and become its owners.
2. A compulsory company: it is the company that is formed without

any action by the partners, such as the inheritance of an asset.

**Second Category:** Contractual Company, which is formed by a contract between two or more partners, and the contract specifies the form of the company. There are five types of companies in this category: Al-'Inan Company, Al-Mudharaba Company, Al-Wujooh Company, Al-Abdan Company, and Negotiation Company.

1. **Al-'Inan Company (The Company of Equals):** A contract formed between two or more partners. Each partner invests a specific amount of funds, and contributes in operating a business. There is no requirement to share equality or control, unless the agreement so requires.
2. **Al-Mudharaba Company (The Company of Body and Capital):** Also called a lending company, this sort of company is based on sharing the profit that results from funds contributed by one partner (the company lord) while the other partner (a speculator) performs the operation. The funds must be in a specified amount of cash, and the profit sharing percentages are known.
3. **Al-Wujooh Company (The Company of Reputation):** A contract between two or more partners without capital, but they purchase commodities on credit

based on their goodwill and reputation or their social status. The debts will be paid after selling the goods. They are entitled to the profit and loss based on their shareholding. This sort is based on the trust of traders in the partners.

4. **Al-Abdan Company (Bodies Company):** A contract formed between two or more people to work together with their skills. They use their money to buy necessary tools. It is usually formed between carpenters, blacksmiths, tailors, jewelers, etc. The profit earned is distributed between them.
5. **Al-Mufawadhah (Negotiation Company):** A contract formed based on any combination of the above form of companies.

Hanafi authorized all of these kinds of companies, as did Maliki except the Wujooh Company. The Shafie disallowed all kinds except the Al-'Inan Company. Hanbali permitted all of these forms of companies except some forms of the Negotiation Company.

All kinds of companies in Islamic law are based on mutual trust among partners. Thus, all of these forms of companies are general partnerships. The aforementioned are simple definitions offered to simplify the various forms of companies in Islamic law. The full definitions and conditions according to the Islamic schools are beyond the scope of this discussion.





## Islamic & International Law Conference

### *"Islamic Banking – Bank without Interest"*

The purpose of the seminar on September 30, 2015, was to increase students' awareness of the historical background of the concept of *Riba* and Islamic Bank. There were 89-students in attendance and a huge collection of Arabic food! Thank you to the Black Law Student Association, the Saudi Student Association, and the Master of Law Association for your partnership.



## THE LEGITIMACY OF ARBITRATION IN ISLAMIC LAW "SHARI'A"

By Mohammad Almushaigeh

The methods of alternative dispute resolution (ADR) are arbitration, mediation, negotiation, and conciliation. These methods, especially arbitration in the commercial field, have become the principle methods of resolving disputes between countries, individuals, and corporations. Different languages, customs, cultures, cross border trades, and legal systems contribute to the growing desire to use commercial arbitration.

The Islamic religion was established by the Prophet or Messenger of God Muhammad in Mecca and Medina cities in the Arabic land.<sup>1</sup> The Prophet Muhammad began the Revelations of the Islam religion in 610 A.D. From that time until his death in 632,<sup>2</sup> he gathered a following, unified a people, established a peaceful

social framework, and spread his message throughout Arabia. The belief in Muhammad's prophethood is the main aspect of the Islamic faith. After the Prophet Muhammad's death, Islamic influence spread from the border of China through North Africa.<sup>3</sup>

The Islamic jurisprudence "*Shari'a*", recognized, confirmed and regulated the methods of dispute settlement especially arbitration. In the Arabic language, the word of arbitration means literally *Tahkim*, and an arbitrator is referred to as *Hakam*. The Arabic dictionary, The Arab Tongue, stated the following "They made someone arbitrate between them." That means that they ordered him to act as arbitrator, and they accepted his judgment. The word "judgement" appears among the meanings of the word "arbitration."<sup>4</sup>

In *Shari'a* jurisprudence, scholars have expanded the definition of arbitration. They agree that arbitration occurs when "adverse" parties agree to use a good arbitrator to solve their dispute."<sup>5</sup> Arbitration in Islamic law jurisprudence is contractual in nature.

The pre-Islamic Arabs did not have a formal judicial system until the Prophet Muhammad united them under the Islamic system. The Arabs were divided into tribes, each of which was administered by the chief of the tribe. They used arbitration "*Tahkim*" extensively to settle their disputes based on the personal qualities and reputation of the arbitrators. The decision of an arbitrator "*Hakam*" was binding and enforceable.

The most important example of arbitration in pre-Islamic Arabia is the reconstruction of the *Ka'bah* in *Makkah*, which involved the removal of the Black Stone, around the year 605

AD.<sup>6</sup> The argument was between the Arab tribes in the *Makkah* city. Each tribe wanted the honor of putting the Black Stone on the southeastern corner of the *Ka'bah*, which held great religious significance in the Arab tribes. They decided to choose the first person man who entered the *Ka'bah* <sup>7</sup> from the Al Salam Gate as arbitrator. That man was the Prophet Muhammad before he became a prophet and the established Islam. The Prophet ordered that stone be carried on a piece of cloth by elders of the tribes, each of whom held one edge of the cloth, and the Prophet then picked up the stone and placed it on the *Ka'bah*. The Prophet Muhammad successfully arbitrated a solution to the dispute.

Since the emergence of Islam, the primary sources of Islamic law *Shari'*, the *Quran* and the *Sunnah*, have emphasized and recognized the principle and the practice of arbitration as a means of dispute resolution. The *Holy Quran* confirms the legality of arbitration in several verses, an example of which is as follows:

(وَإِنْ خِفْتُمْ  
شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا  
مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا  
إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ  
اللَّهُ بَيْنَهُمَا ۚ إِنَّ اللَّهَ كَانَ  
عَلِيمًا خَبِيرًا) <sup>8</sup>

In English, this verse means: "If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allâh will cause their reconciliation. Indeed Allâh is Ever All-Knowing, Well-Acquainted with all things."<sup>9</sup> *Sharia'* jurists assert that this verse is a proof of the legality of arbitration. Since the *Quran*, which is

the main resource of Islamic law, allows arbitration between husband and wife to preserve the family's relationship and solve their disputes rather than the judiciary, then arbitration is permitted to be used to solve other types of disputes, such as commercial and labor disputes.<sup>10</sup>

The legality of arbitration is been confirmed by *Sunnah*, which is the second primary source. The Prophet Muhammad preferred and advised his closest companions and others to resolve disputes by arbitration and other means of amicable settlement. Much evidence exists arbitration practice was often uses during the life of the Prophet of Muhammad and the life of the Prophet's companions.<sup>11</sup>

For Example, the treaty of Medina City signed in 622 A.D. between Muslims, Non-Muslim Arabs and Jews, is the first treaty entered by the Muslim community. This treaty included an arbitration clause that called for disputes to be resolved through arbitration.<sup>12</sup> Dr. Ismail al-Astal pointed out that the Prophet Muhammad's arbitration agreement between Muslims, Non-Muslim Arabs and Jews emphasized the importance and legality of arbitration. Another example arose when Hani Abou Sharih met the Prophet Muhammad and told him that he was an arbitrator in the disputes between his people. The Prophet Muhammad acknowledged Hani Abou Shariah as an arbitrator, which is compelling evidence of the legality of arbitration in *Shari'a*.<sup>13</sup>

In addition to the main sources of *Shari'a* (the *Quran* and the *Sunnah*), the *Ijma* or consensus, which is the one of the secondary sources and the third source of Islamic law, has also recognized the legality of arbitration as a means of dispute resolution. The companions of the Prophet Muhammad and after that, the four schools of

Islamic jurisprudence, the Hanafi School; the Maliki School; the Shafi'e School; and the Hanbali School in the Sunna perspective around the Islamic world, have consented to arbitration practiced. As an example of arbitration practiced by the companions, Omar Bin Al Khatab, who was the second caliph after the Prophet Muhammad, and Ubai Bin Ka'b selected arbitration to settle their dispute in the garden and the palms and agreed that the Zaid Bin Thabit would be the arbitrator.<sup>14</sup>

Finally, arbitration in light of Islamic law *Shari'a* is important, and applicable. The enhanced importance of arbitration is due to the advantages that arbitration offers over other methods of dispute resolution, especially in light of the autonomy of the parties, the speed, the greater expertise of the arbitrator in matters brought to his or her attention, and the confidentiality of the matter under discussion. In considering the significance of arbitration, Islamic jurisprudence has emphasized its legality. However, Islamic jurisprudence selects the scope of arbitration, the requirements of the arbitrators, and other provisions, that will be discussed in the next articles.



**Mohammad Almushaigh**  
SJD Candidate, McKinney Law





Perfecto "Boyot" Caparas, past President Omar Alsunaid, and current President Alhadi Altower presenting each other with certificates of appreciation.



**Top row from the left:** Mohammad Alduayliji (SBA Representative); Abdullah Balbead (Board); Alhadi Altower (President); Perfecto "Boyot" Caparas (ILA Advisor); Faisal Emad Sadat (P.R. Officer); Omar Alsunaid (former President).

**Bottom row from the left:** Rakan Alharbi (Treasurer and Board); Bashar Almofadda (Member); Hannah Croucher (Secretary); Abdulrahman Alkhalaf (Member); Siraj Bargawi (Member); Mohammad Almushaigeh (Board).  
(Not pictured: Moustafa Alameldin – Vice President)



## ILA Election Day

The ILA Officers were elected on  
November 23, 2015

# INTELLECTUAL PROPERTY RIGHTS IN ISLAMIC LAW

By Abdulrahman Alkhalaf

Islamic law does not have as much detail about intellectual property and I will explain this later. However, this does not mean that Islamic law has no interest to protect intellectual property. It is attributed by some to the movement of the recession in the Islamic world, especially in the field of technology and innovation generally due in many respects to repeat compositions and innovations in the states and Islamic universities; the belief that the processing is coordination between Islamic countries develops a supervisory mechanism standardized for these compositions especially theses and scientific research not to repeat them save time and provided for the effort.

It is by attention to scientific research and intellectual production as a matter of correlative searching for ways to protect this intellectual production. A progress in Islamic countries is subject to scientific progress as we enter the third millennium. Some indicate that there are statistics. Scientific precision confirms that the energies of scientific, creative and artistic Muslims people to the ebb and clear in all areas, particularly in the fields of scientific research and creative production in general.

Islamic law and Shariah are synonyms. Shariah has primary sources and secondary sources. The primary sources are the Quran, the Sunna (the path of the prophet-peace upon him), ijma (consensus on a

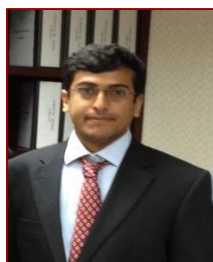
point of law), and qiyas (a strict analogical reasoning). The secondary sources are the concepts of istihsan (the ruling that removes the most hardship), maslahah (which is in the best of the public). Other secondary resources include inference and local custom.

In general Islamic law can be divided into three areas: (1) area, which the law has specifically mentioned, (2) area where the law has provided general principles, (3) and area where the law is silent. If the Quran and the Sunna are silent a scholar can attempt to formulate a rule by way of Ijma, Qiyas, or secondary sources to make ijtihaad that is a scholar's best effort to find out Allah's (almighty) true revelation in matters that are not directly covered by the Quran and the Sunna.

The Quran and the Sunna are silent about intellectual property law, so intellectual property laws are subject to the ijtihaad. Shariah scholars have three opinions of intellectual property law: (1) No one owns intellectual property because it benefits society as a whole and it is not recognized by Shariah (2) intellectual products are secular matters that may be possessed, and (3) Shariah accepts intellectual property law and the implications of them are to be respected by Muslims. The third opinion is the majority opinion and is upheld by the International Islamic Fiqh Academy (Members of scholars, scientists and thinkers in various fields of knowledge of

(Continued)





**Abdulrahman  
Alkhalaf**

SJD Candidate,  
McKinney Law

jurisprudence, culture, science and the economy across the Muslim world who study the problems of contemporary life and the *ijtihad* in order to provide solutions stemming from Islamic heritage evolve Islamic thought).

Scholars try to subdue the Western intellectual property laws to Shariah principles due to Shariah shortage details about intellectual property law. These scholars try to adopt Western intellectual property laws in a manner consistent with Shariah. The purpose of my research is to determine if U.S. intellectual property law can be consistent with Shariah, and if so, how.

Both U.S law and Islamic law have their own theories about intellectual property rights and why the law should protect intellectual property. In this proposal I will focus on the main theories of the two laws about intellectual property as an example of how my study is going to be. I will analyze each theory individually and then what are the similarities and differences between them.

Shariah has five major goals: preservation of religion, life, familial relations, mental capacity, and wealth. Intellectual property is considered wealth. In Islam, dowry is one of the basic conditions of marriage and dowry has to be such type of wealth. Once the prophet- peace upon him- said "I marry her to you for what you have of the Quran." The Quran is basically knowledge and this demonstrates that

this knowledge is a type of wealth and can be treated as such. Since intellectual property is wealth, it is protected under Islamic law; the prophet- peace upon him- said "no wealth of a Muslim can be taken except with his approval." According to Permanent Committee for Islamic Research and Issuing Fatwas of Saudi Arabia, it does not matter whether the intellectual property is Muslim or non-warlike non-Muslim, the rights of non-warlike non-Muslim are to be respected as that of Muslims.

In Shariah, the only and true possessor is Allah (almighty). "Yea, unto Allah belong all things ..." Quran Nisa-132. Thus, the absolute position is for Allah (almighty) alone. However, individuals can own properties and this has to be legislated under the rules of Allah (almighty). An individual can own property by contracts, licenses, inheritance... etc., but my focus will be on acquiring property by developing vacant or undeveloped land.

I mentioned before that the Quran and the Sunna are silent about intellectual property and how scholars attempt to formulate a rule by way of *Ijma*, *Qiyas*, or secondary sources by using *ijtihad*. Possessing vacant or undeveloped tangible (land) property by developing it is a stable way under Shariah. Scholars used *qiyas* and concluded possessing vacant or undeveloped intangible property by developing it is a stable way under Shariah. The analogical reasoning behind this is no previous owner has title to the property and developing undeveloped property benefits the community.

This has the positive connotation of making something useful and productive for the benefit of the community. Usefulness, improvement and optimal exploitation seem to be the crucial criteria. From this we can say that "community benefit" is an Islamic main theory of intellectual property. Works of authorship, inventions and the use of trademarks are meant to be useful; they do provide benefits to society in the form of original creations, technological inventions and guaranty of source. These materialize with the creation of books, music, medicines and software all marketed through quality brands indicating a reliable source of origin.

Given that intangibles can be as useful as tangibles both types of property deserve protection.

However, such community benefits are applied to Shariah principles that are derived from the Quran and the Sunna. If an intellectual property conflicted with Shariah principles, then there is no right to be protected regardless the creativity and effort the owner putted in her intellectual product. For instance, if a copyright product has its originality, fixation and does not conflicted with Shariah principles, it is protected because it is a development of a vacant intangible property. Such development benefits the community by encouraging the author and others to more creative work and come up with new ideas. Children of Gabalawi is a novel by Naguib Mahfouz. This novel was not protected by the Shariah protection, but in fact also was banned in many Muslim countries because of the way it addressed Allah (almighty). Fully respecting to Allah (almighty) is a significant principle of Shariah. Naguib went against this principle, so he lost the protection of his work under Islamic intellectual property laws.



Dean Klein being presented with the new ILA Magazine



First ILA meeting on January 13, 2016!

# THE HIJAB, ISLAM, AND STEREOTYPES FROM THE EYES OF AN ALLY

By Hannah Croucher



**Hannah Croucher**

JD Candidate, McKinney School of Law

*The Prophet said that women totally dominate men of intellect and possessors of hearts, but ignorant men dominate women, for they are shackled by the ferocity of animals.*

-Rumi, Sufi Persian Poet (1207-1273)

Despite growing up in the conservative suburbs of Indianapolis, my family was never committed to a particular congregation or religious group. My sister, however, was a committed member at Second Presbyterian Church, where I occasionally attended service. Consequently, my curiosity and appetite to understand all walks of life prospered and my horizons began to

open. As a young adult, my passion for culture began in my fascination with Buddhism, which then continued to expand into social justice when I began to study the Arabic language. This is undoubtedly the point in my life where I discovered my calling and purpose to support the prosperity of women's rights and human rights in the Middle East. I am not a Muslim, but I am an ally. The Muslim community is my family – a family which has been unjustly touched by the unstoppable, irrevocable presence of fear and hatred.

There are many things about Muslim cultures that I adore: the smells, the colors, the patterns, the love for family, and the persistence with feeding you and giving you more *shaay* (tea) than you could drink in a lifetime. During my travels to Bangladesh in May 2014, I cried the first time I heard the call to prayer live. Whenever I step into a mosque, I feel a rush of peace flow over me. To this day I do not know why I am compelled by these feelings. On the opposite side of the spectrum, what is even more profound and starkly horrifying to me is the fear, hatred, and misunderstanding toward one of the world's most beautiful religions, and the lack of compassion and understanding for Muslim feminism. Unfortunately, such misguided hatred now targets one of this religion's most impactful and foundational pieces: the woman in the hijab and her loyal allies. Very recently, and for the first time in my life, I was the woman in the hijab.

A few weeks ago through social media, my father shared a picture of me in a hijab (pictured above) that was taken while celebrating Iftar with my friends at the end of the 2015 summer. Iftar is the feast to break the fast on the last day of Ramadan; the holiest month of the year

(Continued)

## ILA COFFEE HOUR Stereotypes of Muslim Women

The Islamic Law Association held a coffee hour on January 27, 2016 where ILA Secretary Hannah Croucher discussed the stereotypes of Muslim women, the fear associated with the Muslim community, and how to better understand the stereotypes to make a positive change. Arabic desserts and coffee were provided with a great discussion between ILA members and McKinney students.





where Muslims fast from sunrise to sunset and become closer with God. He included a statement affirming his fear that I have lost my way, joined a brutal cult, and that he does not support my stance. I saw the notification after finishing my first ever law school exam (I know, as if it was not already terrifying enough). I felt the life rush out of me. The ignorance and fear was more real at that moment than I had ever felt. I immediately reached out to my network for support, and what I received, initially caused by pure hatred, was the result of pure love. I could feel the energy of my Muslim and interfaith friends wrap around me with embrace. For the first time in my life I felt what it was like to be feared and hated because of the way I looked. This hatred has perpetuated beyond a person of a particular faith to anyone associated with the community or culture of it. The largest part people fail to understand is that the majority of Muslims globally fear the very same things that non-Muslims do. Many people are unaware of the difference between culture and religion; confusing them as one and perpetuating more misunderstanding. A piece of cloth on a woman's head and interfaith affiliation does not justify being labelled as a person of terror. A tiny speck of evil, no matter how powerful, does not overpower the peaceful majority, nor does it take away from the rights and equality of a person. A woman has every right to choose for herself, and should not be ridiculed or judged for her choices.

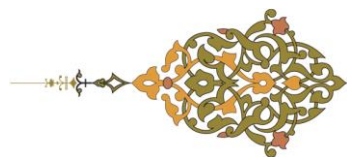
Stereotypes will never completely dissolve, but we can correct misunderstanding. Yes, the hijab can be oppressive in some Muslim societies, and it is up to the interpretation of the religious text and cultural standards that may dictate her ability to veil or unveil. Interpretation and history are strong forces. The Quran is written in Arabic, which is not the native tongue of all Muslim countries, therefore it is up to those interpreting the words to present them in their true way. This interpretation may have been passed down for generations, whether true to the original word or not. Let's think of American culture built on Christian beliefs – at one point women could not vote, a woman's place was in the home, women were

discouraged from pursuing higher education, and so on. Women in the Catholic Church still cannot hold positions as priests. Reinterpretation, modernization through faith, and the liberalization of culture are all helping rightfully revise our societies in our pursuit for equal rights and the dissolvent of gender-typical stereotypes. When you have societies so deeply embedded in cultural standards – which do at times merge religion and state together, while having incredibly high ideals of honor – it can be easily misunderstood because it does not make sense to us based on what we have experienced. Stereotypes have divided us; history can show us that. We must be mindful that our world is a diverse one and that the fear associated with labelling does not make us a unified nation, but an ignorant one. Feminism paired with intercultural and interfaith equality is key to a respectful and prospering world... so to empower the equality of women we must empower a woman's decision.

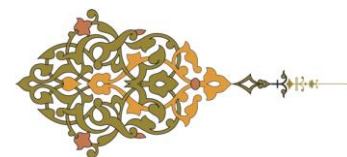
How do we dispel these religious and cultural anxieties? Education. I have not and will not face in my life the types of discrimination my non-Caucasian friends have and will face, but I am aware of it. As a Caucasian woman in the Muslim community my experiences have shown me that fear and hatred have no barriers. I believe people understand things better when they can relate to them, and if we are going to continue to fight for women's rights and equality, we must understand how broad the concepts of feminism and liberalization are. Inquire with friends, read various articles, and most importantly, meet a Muslim. Come talk with me; we will wear a hijab together and chat. Ignorance is more destructive than any war, but education has always been feared the most.

*Reasonable people adapt themselves to the world.  
Unreasonable people attempt to adapt the world to  
themselves. All progress, therefore, depends on  
unreasonable people.*  
-George Bernard Shaw





## ILA Events Schedule – Spring 2016



| <b>Date</b>          | <b>Time</b>                               | <b>Location</b>           | <b>Event</b>   |
|----------------------|---|---------------------------|--|
| January 27,<br>2016  | 11:30 <sub>am</sub> - 12:30 <sub>pm</sub> | McKinney<br>School of Law | Islamic Coffee Hour “The<br>Stereotypes of Muslim Women”             |
| February 23,<br>2016 | 11:00 <sub>am</sub> - 1:00 <sub>pm</sub>  | McKinney<br>School of Law | Publishing Second Edition of<br>Islamic Law Magazine                 |
| February 24,<br>2016 | 11:30 <sub>am</sub> - 12:30 <sub>pm</sub> | McKinney<br>School of Law | Islamic Coffee Hour “Islamic<br>Finance”                             |
| March 30, 2016       | 11:30 <sub>pm</sub> - 12:30 <sub>pm</sub> | McKinney<br>School of Law | Islamic Coffee Hour “The<br>Relationship Between Islam &<br>Culture” |
| April 14, 2016       | 11:00 <sub>am</sub> - 1:00 <sub>pm</sub>  | Outside Social            | ILA Call-Out Meeting   |
| April 27-28,<br>2016 | 11:30 <sub>am</sub> - 12:30 <sub>pm</sub> | McKinney<br>School of Law | Good Luck with Finals Coffee &<br>Snacks                             |

\* The Association will send several reminders for its members with more details for each event or for an updating within 10 days prior to the day of the event.

## Notes

The Arabic land is currently Saudi Arabia. Mecca or Makkah was the first sacred city, the epicenter of the faith for Muslims, and the birthplace of the Prophet Muhammad. It is located in the Hejaz region on the west side of Saudi Arabia. It is also the place where Muslims do the Hajj pilgrimage, which is the fifth of the fundamental Muslim practices known as the “Five Pillars of Islam”. Medina or Yathrib was the second of the three holy cities of Islam (including Mecca and Jerusalem). It is located in Saudi Arabia, and it has the burial place of the Islamic Prophet Muhammad. See the website of Places of Peace and Power. At

[http://sacredsites.com/middle\\_east/saudi\\_arabia/mecca.html](http://sacredsites.com/middle_east/saudi_arabia/mecca.html)

<sup>2</sup> The Prophet Muhammad was born in Mecca in the year 570 A.D. in the midst of two great empires. His full name was Abū al-Qāsim Muḥammad ibn ‘Abd Allāh ibn ‘Abd al-Muṭṭalib ibn Hāshim. He died in 632 A.D. See Raj. Bhala, , *Understanding Islamic law (Sharī‘a)*, 4-6 (LexisNexis Law School Publishing Advisory Board) 2011.

<sup>3</sup> Id.

<sup>4</sup> Mohammad A. H .Al Jarba, *Commercial Arbitration in Islamic Jurisprudence: A study of its role in the Saudi Arabia context* 37 (Thesis Submitted For the Degree of Doctor of Philosophy in Law at the University of Wales, Aberystwyth. 2001). It is quoted from Jamal Addin Ibn Mandor [(died 711.H, 1290A.D.) Lissan al Arab : [The Arab Tongue], 1<sup>st</sup> Ed. Egypt, 1303H,[1882] Vol.5, P 32.

<sup>5</sup> See Abdullah Al Khnen, *Arbitration in Sharia* 27 ( Fuad Bano ed., Riyadh, 2000).

<sup>6</sup> See Bhala, supra note, at 7.

<sup>7</sup> See Aljrba, supra note, at 35. Also see Hisham, Seerat Ibn Hisham (Ministry of Islamic Affairs, Saudi Arabia) <<http://www.al-islam.com>>, accessed 21 May 2007.

<sup>8</sup> Surat Alnissa 4, Chapter 5, verse 35. The Holy Qur’an.

<sup>9</sup> The Qur’an, Surat Alnissa. The reference to the Quran is made to the translation of the meaning of the Quran from Arabic to English. The translation was taken from the King Fahd Complex for the Printing of the Holy Qur'an, available at <http://qurancomplex.gov.sa/default.asp?l=eng>. Also see the Quran.com at <http://quran.com>.

<sup>10</sup> Qadri. Mahmood, *Arbitration in Light of Shari’a law* 47 (Dar of Asamei for Publishing and Distribution, Saudi Arabia) ( 2009). It is translated from the Arabic language.

<sup>11</sup> Faisal.Kutty, *The Shari’a Factor in International Commercial Arbitration*, 30-31 ( Osgoode Hall Law School York University, Major Research Paper. Part Time LL.M. Program. April 17, 2006. SSRN-id898704). available at <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=898704](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=898704)>.

<sup>12</sup> Id.

<sup>13</sup> Mahmood, supra note 10, at 58. narrated by Imam Muslim AL NISSABURI (died 261 H) Arab RepublicLibrary, MohamedSabiha& SonsPrinting Press,Egypt,vol.5,P.133.

<sup>14</sup> Mohammed. Zoheily, *Shari’a and Legal Arbitration in the Present Era*, 3 Damascus University Journal of Economic and Legal Sciences. 362, 368 (2011).